

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALVIN HENNINGTON, JR.

Plaintiff,

v.

SAN DIEGO POLICE DEPARTMENT,
et. al.,

Defendants.

Civil No.08cv0859 JAH (LSP)

**ORDER DENYING *EX PARTE*
APPLICATION [Doc. No. 13]**

Plaintiff has filed a document entitled "Ex-Parte Application. . .Urgent Request." Plaintiff alleges acts of retaliation by Defendants for filing his lawsuit, including assault and false arrest. It is unclear what exactly Plaintiff is requesting from the Court. Although he requests a court injunction and court judgment, the Court is unable to determine whether Plaintiff is seeking preliminary relief pursuant to a temporary restraining order or preliminary injunction, or is seeking a permanent injunction and judgment on the claims of his complaint.

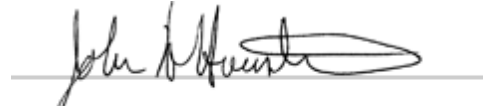
Plaintiff's application fails to demonstrate he is entitled to either. For a preliminary injunction or temporary restraining order, Plaintiff must show (1) a strong likelihood of success on the merits of his claim, (2) the possibility of irreparable injury if preliminary relief is not granted and (3) a balance of hardships favoring the plaintiff, or alternatively, (1) a combination of likelihood of success on the merits and the possibility of irreparable harm or (2) that serious questions going to the merits are raised and the balance of

1 hardships tips sharply in the moving party's favor. See Save Our Sonoran, Inc. v. Flowers,
2 408 F.3d 1113, 1120 (9th Cir. 2005); Immigrant Assistance Project of L.A. County of
3 Fed'n of Labor v. INS, 306 F.3d 842, 873 (9th Cir. 2002); Cassim v. Bowen, 824 F.2d
4 791, 795 (9th Cir. 1987). Plaintiff's application, which merely provides various allegations
5 against various individuals, fails to make the required showing for preliminary relief.

6 For summary judgment on his complaint, Plaintiff must demonstrate "there is no
7 genuine issue as to any material fact and. . .[he] is entitled to judgment as a matter of
8 law." Plaintiff's allegations of retaliation fail to meet his burden of establishing there is
9 no genuine issue of material fact.

10 Accordingly, Plaintiff fails to establish he is entitled to an injunction, whether
11 preliminary or permanent. Based on the foregoing, **IT IS HEREBY ORDERED** Plaintiff's
12 *ex parte* application is **DENIED**.

13 DATED: August 20, 2008

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15 JOHN A. HOUSTON
16 United States District Judge
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